



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/139,777	08/25/1998	ROBERT A. KNEE	UV-58	5715

7590 12/19/2002
DAVID H. HWANG
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1104

EXAMINER

KOENIG, ANDREW Y

ART UNIT PAPER NUMBER

2611

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/139,777

Applicant(s)

KNEE ET AL.

Examiner

Andrew Y Koenig

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 36-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 9, 10, and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,160,570 to Sitnik (Sitnik) in view of U.S. Patent 6,177,931 to Alexander et al. (Alexander) and U.S. Patent 5,155,591 to Wachob (Wachob).

Regarding claims 1 and 5, Sitnik teaches a system and method for targeting advertisements to a user of an interactive television program guide. Sitnik shows a receiver, which can receive both program guide information (col. 7, lines 25-27) and advertisements with preselected values for demographic categories (col. 8-9, lines 65-4). Sitnik is silent on advertisements for the program guide. Alexander teaches displaying an advertisement within the program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as taught by Alexander in

Art Unit: 2611

order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract). Sitnik is silent on using a survey to gather demographic information.

Wachob teaches gathering demographic information via a survey (col. 1, ll. 56-64; col. 6, ll. 15-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by implementing a survey to gather demographic information as taught by Wachob in order to enable advertisements to be efficiently matched to their appropriate demographic category. Sitnik also shows a user input receiver (col. 7, lines 47-57), and a microprocessor, which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28). Sitnik teaches a memory for storing user values (col. 6, 39-43). On column 2, line 56-65, Sitnik teaches a receiver that selects one advertisement based on a comparison.

Regarding claims 2, Sitnik shows the use of non-volatile memory (col. 6, lines 41-43)

Regarding claim 3, Sitnik discloses a remote control as a viable means for a user transmitting device (col. 4, lines 56-59).

Regarding claim 4, the comparison of the demographic information of the advertisement with the demographic information of the user profile stored in memory is performed by said microprocessor as taught by Sitnik (col. 6, lines 23-43; col. 7, ll. 41-57).

Regarding claim 9, Sitnik provides default values for the demographic categories (col. 8, lines 3-6).

Art Unit: 2611

6 Regarding claim 10, Sitnik provides a period for determining user values for demographic categories (col. 8, lines 8-13).

Regarding claims 36 and 38, Sitnik teaches using income information and gender information (col. 7, ll. 47-55).

Regarding claims 37 and 39, Sitnik teaches a profile using income information and gender information (col. 7, ll. 47-55), which is information not program guide-based.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,160,570 to Sitnik (Sitnik), U.S. Patent 6,177,931 to Alexander et al. (Alexander) and U.S. Patent 5,155,591 to Wachob (Wachob) in view of U.S. Patent 6,020,883 to Herz et al. (Herz) and U.S. Patent 6,286,140 to Ivanyi (Ivanyi).

Regarding claim 6, Sitnik teaches monitoring viewing habits in order to adjust the user profile (col. 7, ll. 41-57). However, Sitnik fails to teach using preselected demographic data associated with each television channel and program. Herz teaches the determination of user values where the program is indicative of how well the user fits said demographic category (Herz, 21:63-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using a demographic category associated with a program as taught by ^{Herz}~~the~~ in order to maintain an accurate user profile. Herz teaches monitoring programs but fails to teach monitoring channels. Ivanyi teaches monitoring a channel (col. 2, ll. 49-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by monitoring a channel in order to gather information about

the user thereby collecting more information regarding the user to enhance the quality of the user profile.

Regarding claim 7, Sitnik fails to disclose determining user values by channel and program demographic categories, and Herz teaches the determination of user values where the television program has a predetermined value of how well the user fits said demographic category (Herz, 21:63-67). Therefore, it would have been obvious to one of ordinary skill in the art to modify Sitnik by adding at least one channel and program demographic category as taught by Herz in order to improve the accuracy of the demographic information. Herz teaches gathering information for a profile but fails to specify a channel. Ivanyi teaches monitoring of channel information (col. 2, ll. 49-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Herz and Sitnik by gathering information from the channel as taught by Ivanyi in order to generate a user profile.

5. Claims 8, 11, 40, 41 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,160,570 to Sitnik (Sitnik), U.S. Patent 6,177,931 to Alexander et al. (Alexander) and U.S. Patent 5,155,591 to Wachob (Wachob) in view of U.S. Patent 6,020,883 to Herz et al. (Herz).

Regarding claim 8, all the limitations of claim 8 have been addressed in the discussion of claim 1 except claim 8 adds the limitation of weight values to the user input. Sitnik does not teach user values with weight values indicative of the effect said user input has on the user values for the demographic categories. Herz (col. 31-32,

Art Unit: 2611

lines 63-10) discloses a weight value (Δ) that further defines the user value. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sitnik by using weight values to further customize the value of the user to the actual user.

Regarding claim 11, Sitnik does not teach a decay procedure to refresh user values, however such is taught by Herz (col. 14, lines 4-10). A decay procedure is a refresh cycle that updates the value of the user after an amount of time. It would have been obvious to one having ordinary skill in the art to dynamically adjust the user values over a given period of time to customize the advertisements accordingly in order to provide current up to date demographic data.

Regarding claim 40, the limitations of claim 40 have been addressed in the discussion of claims 1 and 10, except claim 40 adds the limitations of how much user input is needed before the user value for that category is deemed to be reflective of the given user. Herz teaches predicting a program and if the user watches the program then the profile is valid (col. 26-27, ll. 52-7), which reads on how much user input is needed before the user value for that category is reflective of the given user. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by gathering user input to determine a reflective profile as taught by Herz in order to maintain an accurate profile for the user.

Regarding claim 41, the limitations of claim 41 have been addressed in the discussion of claims 1 and 11.

Art Unit: 2611


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

ayk
December 15, 2002


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
OGY CENTER 2600